

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

RICKEY LETT,)
)
Plaintiff,)
)
v.)
)
)
CLASSIC BUICK-GMC-CADILLAC)
and WARRANTY SUPPORT)
SERVICVES, LLC,)
)
Defendants.)

CIVIL ACTION NO.
2:17cv373-MHT
(WO)

OPINION AND ORDER

Plaintiff filed this lawsuit asserting that the defendants breached a duty owed to him and engaged in fraudulent business practices that subjected him to "a pattern of illegal activity of extortion." This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that defendant Warranty Support Services, LLC's motion to dismiss be denied; that the plaintiff's case be dismissed without prejudice for lack of subject-matter jurisdiction as plaintiff did not raise any federal claim in his

amended complaint and cannot establish diversity jurisdiction; that the motions to compel arbitration and to stay the proceedings filed by SAI Montgomery BCH LLC d/b/a Classic Buick-GMC-Cadillac be denied due to the court's lack of subject-matter jurisdiction; and that plaintiff's "motion for a retrial" be denied due to the lack of subject-matter jurisdiction. Also before the court are a newly filed amended complaint that attempts to allege a federal claim; the plaintiff's objection to the recommendation, which is contained with a new amended complaint; and plaintiff's motion for judgment on the merits.

After an independent and de novo review of the record, the court concludes that plaintiff's objection should be overruled and the magistrate judge's recommendation adopted to the extent that the motion to dismiss should be denied and the first amended complaint should be dismissed due to lack of subject-matter jurisdiction. The court will also deny

plaintiff's motion for judgment on the pleadings, which will be rendered moot by the dismissal of the first amended complaint. However, in light of the plaintiff's recent filing of a second amended complaint containing a possible federal claim, the court will deny the other pending motions but leave to renew, and will refer the case back to the United States Magistrate Judge for further consideration.

Accordingly, it is ORDERED as follows:

- (1) Plaintiff's objection, contained within the second amended complaint (doc. no. 33), is overruled.
- (2) The United States Magistrate Judge's recommendation (doc. no. 31) is adopted.
- (3) Defendant Warranty Support Services, LLC's motion to dismiss (doc. no. 22) is denied.
- (4) The amended complaint (doc. no. 16) is dismissed without prejudice due to lack of subject matter jurisdiction.

(5) Plaintiff's motion for judgment on the merits (doc. no. 32) is denied as moot. All other pending motions are denied with leave to renew.

This case is not closed, and is referred back to the United States Magistrate Judge for consideration of and recommendation in light of plaintiff's filing of a new amended complaint that purports to raise federal claims.

DONE, this the 26th day of March, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE